

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 924**

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**Introduced by Assembly Member Emmerson**  
**(Coauthors: Assembly Members DeVore, Garrick, and Maze)**  
**(Coauthors: Senators Battin and Cox)**

February 22, 2007

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An act to amend ~~Sections 186.2, 459, and 666.5~~ *Section 186.2* of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 924, as amended, Emmerson. Crimes: vehicles.

Existing law defines “criminal profiteering activity” as any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as one of several specified crimes.

This bill would add offenses involving vehicle theft to that list of specified crimes.

~~Existing law defines burglary as when a person enters one of several specified places with the intent to commit larceny or any felony. One of those places is a vehicle when the doors are locked.~~

~~This bill would eliminate the element that the doors must be locked on the vehicle in order to constitute a burglary.~~

Because the bill would expand the scope of ~~crimes~~ *a crime*, the bill would impose a state-mandated local program.

~~Under existing law, if a person is convicted of felony grand theft of a vehicle, as defined, and is subsequently convicted of that offense, the term of imprisonment is 2, 3, or 4 years in the state prison.~~

~~This bill would provide that, for the 3rd or subsequent conviction for that offense, a person shall receive an additional one-year enhancement for each prior conviction for that offense.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 186.2 of the Penal Code is amended to
- 2 read:
- 3 186.2. For purposes of this chapter, the following definitions
- 4 apply:
- 5 (a) “Criminal profiteering activity” means any act committed
- 6 or attempted or any threat made for financial gain or advantage,
- 7 which act or threat may be charged as a crime under any of the
- 8 following sections:
- 9 (1) Arson, as defined in Section 451.
- 10 (2) Bribery, as defined in Sections 67, 67.5, and 68.
- 11 (3) Child pornography or exploitation, as defined in subdivision
- 12 (b) of Section 311.2, or Section 311.3 or 311.4, which may be
- 13 prosecuted as a felony.
- 14 (4) Felonious assault, as defined in Section 245.
- 15 (5) Embezzlement, as defined in Sections 424 and 503.
- 16 (6) Extortion, as defined in Section 518.
- 17 (7) Forgery, as defined in Section 470.
- 18 (8) Gambling, as defined in Sections 337a to 337f, inclusive,
- 19 and Section 337i, except the activities of a person who participates
- 20 solely as an individual bettor.
- 21 (9) Kidnapping, as defined in Section 207.
- 22 (10) Mayhem, as defined in Section 203.
- 23 (11) Murder, as defined in Section 187.
- 24 (12) Pimping and pandering, as defined in Section 266.
- 25 (13) Receiving stolen property, as defined in Section 496.
- 26 (14) Robbery, as defined in Section 211.
- 27 (15) Solicitation of crimes, as defined in Section 653f.

1 (16) Grand theft, as defined in Section 487.

2 (17) Trafficking in controlled substances, as defined in Sections  
3 11351, 11352, and 11353 of the Health and Safety Code.

4 (18) Violation of the laws governing corporate securities, as  
5 defined in Section 25541 of the Corporations Code.

6 (19) Any of the offenses contained in Chapter 7.5 (commencing  
7 with Section 311) of Title 9, relating to obscene matter, or in  
8 Chapter 7.6 (commencing with Section 313) of Title 9, relating to  
9 harmful matter that may be prosecuted as a felony.

10 (20) Presentation of a false or fraudulent claim, as defined in  
11 Section 550.

12 (21) False or fraudulent activities, schemes, or artifices, as  
13 described in Section 14107 of the Welfare and Institutions Code.

14 (22) Money laundering, as defined in Section 186.10.

15 (23) Offenses relating to the counterfeit of a registered mark,  
16 as specified in Section 350.

17 (24) Offenses relating to the unauthorized access to computers,  
18 computer systems, and computer data, as specified in Section 502.

19 (25) Conspiracy to commit any of the crimes listed above, as  
20 defined in Section 182.

21 (26) Subdivision (a) of Section 186.22, or a felony subject to  
22 enhancement as specified in subdivision (b) of Section 186.22.

23 (27) Any offenses related to fraud or theft against the state's  
24 beverage container recycling program, including, but not limited  
25 to, those offenses specified in this subdivision and those criminal  
26 offenses specified in the California Beverage Container Recycling  
27 and Litter Reduction Act, commencing at Section 14500 of the  
28 Public Resources Code.

29 (28) Human trafficking, as defined in Section 236.1.

30 (29) Theft of personal identifying information, as defined in  
31 Section 530.5.

32 (30) Offenses involving the theft of a motor vehicle, as specified  
33 in Section 10851 of the Vehicle Code.

34 (b) (1) "Pattern of criminal profiteering activity" means  
35 engaging in at least two incidents of criminal profiteering, as  
36 defined by this chapter, that meet the following requirements:

37 (A) Have the same or a similar purpose, result, principals,  
38 victims, or methods of commission, or are otherwise interrelated  
39 by distinguishing characteristics.

40 (B) Are not isolated events.

1 (C) Were committed as a criminal activity of organized crime.

2 (2) Acts that would constitute a “pattern of criminal profiteering  
3 activity” may not be used by a prosecuting agency to seek the  
4 remedies provided by this chapter unless the underlying offense  
5 occurred after the effective date of this chapter and the prior act  
6 occurred within 10 years, excluding any period of imprisonment,  
7 of the commission of the underlying offense. A prior act may not  
8 be used by a prosecuting agency to seek remedies provided by this  
9 chapter if a prosecution for that act resulted in an acquittal.

10 (c) “Prosecuting agency” means the Attorney General or the  
11 district attorney of any county.

12 (d) “Organized crime” means crime that is of a conspiratorial  
13 nature and that is either of an organized nature and seeks to supply  
14 illegal goods and services such as narcotics, prostitution,  
15 loan-sharking, gambling, and pornography, or that, through  
16 planning and coordination of individual efforts, seeks to conduct  
17 the illegal activities of arson for profit, hijacking, insurance fraud,  
18 smuggling, operating vehicle theft rings, fraud against the beverage  
19 container recycling program, or systematically encumbering the  
20 assets of a business for the purpose of defrauding creditors.  
21 “Organized crime” also means crime committed by a criminal  
22 street gang, as defined in subdivision (f) of Section 186.22.  
23 “Organized crime” also means false or fraudulent activities,  
24 schemes, or artifices, as described in Section 14107 of the Welfare  
25 and Institutions Code, and the theft of personal identifying  
26 information, as defined in Section 530.5.

27 (e) “Underlying offense” means an offense enumerated in  
28 subdivision (a) for which the defendant is being prosecuted.

29 SEC. 2. Section 459 of the Penal Code is amended to read:

30 ~~459. Every person who enters any house, room, apartment,~~  
31 ~~tenement, shop, warehouse, store, mill, barn, stable, outhouse or~~  
32 ~~other building, tent, vessel, as defined in Section 21 of the Harbors~~  
33 ~~and Navigation Code, floating home, as defined in subdivision (d)~~  
34 ~~of Section 18075.55 of the Health and Safety Code, railroad car,~~  
35 ~~locked or sealed cargo container, whether or not mounted on a~~  
36 ~~vehicle, trailer coach, as defined in Section 635 of the Vehicle~~  
37 ~~Code, any house car, as defined in Section 362 of the Vehicle~~  
38 ~~Code, inhabited camper, as defined in Section 243 of the Vehicle~~  
39 ~~Code, vehicle as defined by the Vehicle Code, aircraft as defined~~  
40 ~~by Section 21012 of the Public Utilities Code, or mine or any~~

1 underground portion thereof, with intent to commit grand or petty  
2 larceny or any felony is guilty of burglary. As used in this chapter,  
3 “inhabited” means currently being used for dwelling purposes,  
4 whether occupied or not. A house, trailer, vessel designed for  
5 habitation, or portion of a building is currently being used for  
6 dwelling purposes if, at the time of the burglary, it was not  
7 occupied solely because a natural or other disaster caused the  
8 occupants to leave the premises.

9 SEC. 3. Section 666.5 of the Penal Code is amended to read:

10 666.5. (a) (1) Every person who, having been previously  
11 convicted of a felony violation of Section 10851 of the Vehicle  
12 Code, or felony grand theft involving an automobile in violation  
13 of subdivision (d) of Section 487 or former subdivision (3) of  
14 Section 487, as that section read prior to being amended by Section  
15 4 of Chapter 1125 of the Statutes of 1993, or felony grand theft  
16 involving a motor vehicle, as defined in Section 415 of the Vehicle  
17 Code, any trailer, as defined in Section 630 of the Vehicle Code,  
18 any special construction equipment, as defined in Section 565 of  
19 the Vehicle Code, or any vessel, as defined in Section 21 of the  
20 Harbors and Navigation Code in violation of former Section 487h,  
21 or a felony violation of Section 496d regardless of whether or not  
22 the person actually served a prior prison term for those offenses,  
23 is subsequently convicted of any of these offenses shall be punished  
24 by imprisonment in the state prison for two, three, or four years,  
25 or a fine of ten thousand dollars (\$10,000), or both the fine and  
26 the imprisonment.

27 (2) For the third or subsequent conviction for an offense listed  
28 in paragraph (1), a person shall receive an additional one-year  
29 enhancement for each prior conviction of that offense.

30 (b) For the purposes of this section, the terms “special  
31 construction equipment” and “vessel” are limited to motorized  
32 vehicles and vessels.

33 (c) The existence of any fact which would bring a person under  
34 subdivision (a) shall be alleged in the information or indictment  
35 and either admitted by the defendant in open court, or found to be  
36 true by the jury trying the issue of guilt or by the court where guilt  
37 is established by plea of guilty or nolo contendere or by trial by  
38 the court sitting without a jury.

1     ~~SEC. 4.~~  
2     *SEC. 2.* No reimbursement is required by this act pursuant to  
3     Section 6 of Article XIII B of the California Constitution because  
4     the only costs that may be incurred by a local agency or school  
5     district will be incurred because this act creates a new crime or  
6     infraction, eliminates a crime or infraction, or changes the penalty  
7     for a crime or infraction, within the meaning of Section 17556 of  
8     the Government Code, or changes the definition of a crime within  
9     the meaning of Section 6 of Article XIII B of the California  
10    Constitution.